



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000

April 1, 2005

**REGISTERED MAIL**  
**RR 359 893 522 US**

Curtis Wambach  
Washington Department of Fish and Wildlife  
Engineering Division  
600 Capitol Way North  
Olympia, WA 98501-1091

Dear Mr. Wambach:

**RE: Order # 2047**  
U.S. Army Corps of Engineers # **200300275**  
Water Quality Certification for construction of a boat launch facility in Admiralty Inlet at  
Bush Point, Whidbey Island, Island County, Washington.

The request for certification for proposed work in Admiralty Inlet has been reviewed. On behalf of the State of Washington, we certify that the proposed work, as conditioned by the enclosed Order, will comply with applicable provisions of Sections 301, 302, 303, 306 and 307 of the Clean Water Act, as amended, and other appropriate requirements of State law.

This certification is subject to the conditions contained in the enclosed Order. If you have any questions, please contact Alice Kelly at (425) 649-7145. Written comments can be sent to her at the Department of Ecology, 3190 – 160<sup>th</sup> Ave. SE, Bellevue, WA 98008. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

A handwritten signature in cursive script, reading "Jeannie Summerhays".

Jeannie Summerhays  
Section Manager  
Shorelands and Environmental Assistance Program

JS:AK:rc

Enclosure

cc: Sarah Rahman, Corps  
Penny Keys, Ecology



<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER # 2047</b>
<b>WATER QUALITY</b>	)	U.S. Army Corps of Engineers # <b>200300275</b>
<b>CERTIFICATION TO</b>	)	Replace steel rail boat launch with concrete and
<b>Washington Dept. of Fish and Wildlife</b>	)	articulated block boat launch facility in
in accordance with 33 U.S.C. 1341	)	Admiralty Inlet; mitigation at Penn Cove;
FWPCA § 401, RCW 90.48.120, RCW	)	Whidbey Island, Island County, Washington.
90.48.260 and Chapter 173-201A WAC	)	

TO: Washington Department of Fish and Wildlife  
 ATTN: Curtis Wambach  
 Engineering Division  
 600 Capitol Way North  
 Olympia, WA 98501-1091

On May 3, 2004, a public notice for a proposed water quality certification from the State of Washington was distributed for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA §401). The proposed project entails redevelopment of the boat launch at Bush Point on the west side of Whidbey Island. The defunct steel rail boat launch will be replaced with a concrete and articulated block boat launch facility. Mitigation will be provided at Penn Cove by removing an existing concrete bulkhead and associated fill material and planting native shoreline vegetation for creation of surf smelt spawning habitat.

**AUTHORITIES:**

For purposes of this Order, the term "Applicant" shall mean Washington Department of Fish and Wildlife and its agents and contractors.

In exercising authority under 33 U.S.C. 1341, 16 U.S.C. 1456, RCW 90.48.120 and RCW 90.48.260, Ecology has investigated this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. Sections 1311, 1312, 1313, 1316, and 1317 (FWPCA Sections 301, 303, 306 and 307);
2. Conformance with the state water quality standards as provided for in Chapter 173-201A WAC authorized by 33 U.S.C. 1313 and by Chapter 90.48 RCW, and with other appropriate requirements of state law; and
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

**CONDITIONS OF ORDER # 2047 AND WATER QUALITY CERTIFICATION:**

In view of the foregoing and in accordance with 33 U.S.C. 1341, 90.48.260 RCW and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the following conditions:

**A. No Impairment of Water Quality:**

- A1. Admiralty Inlet is classified as Class AA waters of the state. Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC). Water quality criteria contained in WAC 173-201A-030(1) and WAC 173-201A-040 shall apply to this project, unless otherwise authorized by Ecology. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-110(3). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.

**B. Project Mitigation:**

- B1. Impacts to aquatic resources shall be mitigated through measures described in the following documents, except as modified by this Order:

Removal of concrete bulkhead and 200 cubic yards of fill at Penn Cove, as described in the Joint Aquatic Resources Permit Application (JARPA) dated July 2003.

**C. Construction:**

- C1. Construction Stormwater and Erosion Control: Work in or near waters of the state shall be done so as to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment and erosion control Best Management Practices suitable to prevent exceedances of state water quality standards (e.g., detention areas, filter fences, etc.), shall be in place before starting construction, excavating, and grading work at the impact and mitigation sites, and shall also comply with all requirements of any NPDES construction permit, if required.
- C2. All demolition and construction debris shall be disposed at an approved upland disposal site.

- C3. All excess excavated material shall be disposed of above the ordinary high water mark and shall be contained so as to prevent its re-entry into waters of the state.
- C4. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall be contained for proper disposal, and shall not be discharged into marine waters or storm drains.

**D. Notification:**

- D1. The Applicant shall provide notice to Ecology's Alice Kelly at least three (3) days prior to the start of construction. Notification can take place by e-mail to [akel461@ecy.wa.gov](mailto:akel461@ecy.wa.gov), telephone to (425) 649-7145, fax to (425) 649-7098, or in writing.

**E. Emergency/Contingency Measures:**

- E1. In the event the Applicant is unable to comply with any of the permit terms and conditions due to any cause, the permittee shall:
- Immediately take action to stop, contain, and clean up unauthorized discharges or otherwise stop the violation and correct the problem.
  - Notify Ecology of the failure to comply. Spill events shall be reported immediately to Ecology's 24-Hour Spill Response Team at (425) 649-7000, and within 24 hours to Ecology's Alice Kelly at (425) 649-7145.
  - Submit a detailed written report to Ecology within five days that describes the nature of the violation, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.

Compliance with this condition does not relieve the applicant from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.

- E2. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters. No refueling of equipment shall occur over, or within 50 feet of waters of the State.

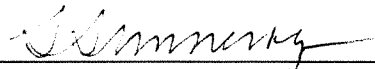
**F. General Conditions:**

- F1. This certification does not exempt and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
- F2. The applicant will be out of compliance with this certification if the project is constructed and/or operated in a manner not consistent with the project description contained in the Public Notice for certification, or as otherwise approved by Ecology. Additional mitigation measures may be required through other local, state, or federal requirements.
- F3. This Order shall be valid during construction activities and is valid until the Corps of Engineers Section 404 permit expires.
- F4. The Applicant will be out of compliance with this certification and must reapply with an updated application if the information contained in the Public Notice is voided by subsequent submittals to the federal agency. Any future action at this project location, emergency or otherwise, that is not defined in the Public Notice, or has not been approved by Ecology, is not authorized by this Order. All future actions shall be coordinated with Ecology for approval prior to implementation of such action.
- F5. Copies of this Order shall be kept on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and foremen, and state and local government inspectors. To avoid violations or non-compliance with this Order, the applicant shall ensure that project managers, construction superintendents, and other responsible parties have read and understand relevant aspects of this Order, the NPDES permit if applicable, and any subsequent revision or Ecology-approved plans.
- F6. The Applicant shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, necessary data collection, or to ensure that conditions of this Order are being met.
- F7. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (e.g., violations of water quality standards), or if additional conditions are necessary to further protect the public interest.
- F8. Liability: Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars (\$10,000) per violation for each day of continuing noncompliance.

**Appeal Process:**

Any person aggrieved by Order # 2047 may obtain review thereof by appeal. Pursuant to chapter 43.21B RCW, a person can appeal this order to the Pollution Control Hearings Board within 30 days of the date of receipt of this Order. Any such appeal must be sent to the Washington Pollution Control Hearings Board, PO Box 40903, Olympia, WA 98504-0903. Concurrently, a copy of the appeal must be sent to the Department of Ecology, Shorelands and Environmental Assistance Program, ATTN: Loree' Randall, PO Box 47600, Olympia, WA 98504-7600. These procedures are consistent with the provisions of Chapter 43.21B RCW and the rules and regulations adopted thereunder.

Dated 4/1/05 at Bellevue, Washington.



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Jeannie Summerhays, Section Manager  
Shorelands and Environmental Assistance Program  
Department of Ecology  
State of Washington